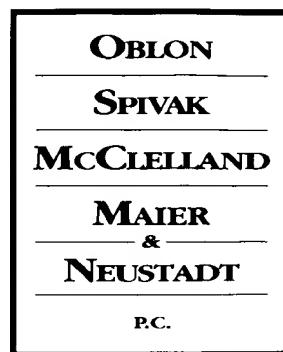




Docket No.: 210849US90

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231



ATTORNEYS AT LAW

RE: Application Serial No.: 09/899,171

Applicants: Yoshiki KIDA, et al.

Filing Date: July 6, 2001

For: EXPOSURE APPARATUS, SURFACE POSITION
ADJUSTMENT UNIT, MASK, AND DEVICE
MANUFACTURING METHOD

Group Art Unit: 2878

Examiner: LUU, T

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SIR:

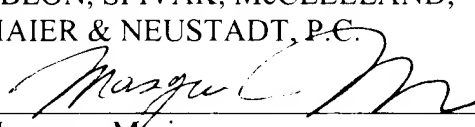
Attached hereto for filing are the following papers:

RESPONSE TO RESTRICTION REQUIREMENT

Our check in the amount of **\$0.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.


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210849US90



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:

Yoshiki KIDA, et al.

SERIAL NO: 09/899,171

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2003

RESPONSE TO RESTRICTION REQUIREMENT

ASSISTANT COMMISSIONER OF PATENTS
WASHINGTON, DC 20231

SIR:

In response to the Restriction Requirement stated in the Official Action dated January 10, 2003, Applicants provisionally elect Group (Invention) I, Claims 1-13, drawn to an exposure apparatus, classified in class 250, subclass 492.2.

Applicants respectfully traverse the outstanding Restriction Requirement for several reasons.

First, the outstanding Office Action simply provides a conclusory statement that the Inventions, Groups I, II, III and IV are distinct, each from the other, under MPEP §806.05(c), because "[i]n the instant case, ... an alignment apparatus can be used to align any type of object or with any type of mask" and "[t]he subcombination has separate utility such as exposing absent any alignment, aligning workpieces, or as a mask or grating in an encoder." However, without further information, such a finding lacks grounds upon which it can be

evaluated whether in fact the two-way distinctness and reasons for insisting on restriction required under MPEP §806.05(c) are established. Accordingly, it is respectfully submitted that the PTO has not carried its burden of proof to establish distinctness.

Furthermore, MPEP §803 states the following:

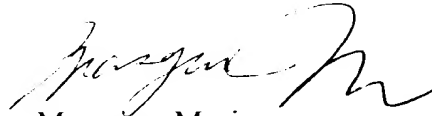
If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

In the present application, Claims 1-13 and 21-27 are directed to exposure apparatus, Claims 14-20 to surface position adjustment units, and Claims 28 and 29 to masks in exposure apparatus, and the Office Action acknowledges that all the Claims are classified in the same class. Hence, it appears that these claims according to the present invention are part of an overlapping search area and that a search for Claims 1-13 would necessarily include the subclasses required for a search directed to the rest of the claims as well. It is therefore believed that there is no undue burden on the Examiner to search all the claims under MPEP §803, and Applicants respectfully traverse the Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Therefore, it is respectfully requested that the requirement to elect a single group be withdrawn, and that a full examination on the merits of Claims 1-29 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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